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ORGANIZATION OF THE WORK OF THE SESSION

Written statement submitted by the Lawyers Committee for Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is distributed in accordance with Economic and Social Council resolution 1296 (XLIV).

[29 January 1993]

THE SITUATION OF HUMAN RIGHTS IN EL SALVADOR

1. For the people of El Salvador, 1992 marked their first year without warfare in more than a decade. The cease-fire achieved in February 1992 was a significant milestone in the search for peace and the establishment of a society capable of ensuring the basic human rights of its citizens and of holding violators accountable.

2. As the Commission gathers in Geneva, the Salvadorian peace process is at a critical juncture. On 7 January, Secretary-General Boutros Boutros-Ghali informed the Security Council that President Cristiani had failed to comply in full with the findings of the so-called Ad Hoc Commission mandated by the peace accords to make recommendations concerning the "purification" (depuración) of the armed forces. This Commission had recommended the dismissal or transfer of 103 officers deemed unsuitable to serve in a peace-time army under civilian rule. By late January, the Cristiani government still had not complied with the Commission's findings. In mid-February, a "Truth Commission" of foreign human rights professionals will release the results of its six-month study of acts of violence committed over the last decade by both sides in the civil conflict.

3. In the view of Lawyers Committee for Human Rights, the Salvadorian peace process, which has been successfully and expertly nurtured by the United Nations and, in particular, the office of the Secretary-General, remains fragile and in need of international vigilance. The Salvadorian Government's current unwillingness to comply fully with negotiated agreements concerning military personnel demonstrates the fragility of civilian authority over military power.

4. This is highlighted by the continuing serious human rights violations occurring in El Salvador. Moreover, the nation's justice system showed no improvement in its ability to provide due process. The shortcomings of the judicial system have been repeatedly highlighted in reports by the United Nations Observer Mission in El Salvador (ONUSAL) human rights division and most recently in the 13 November 1992 report of the Independent Expert of the Commission on Human Rights, Professor Pedro Nikken (A/47/596). Nor has any progress been made in establishing a new independent criminal investigatory body. El Salvador's lack of professional investigative capacity remains a serious obstacle to justice in El Salvador. Likewise, establishment of the new National Civilian Police has been seriously delayed and hampered by lack of resources.

5. The Lawyers Committee would also like to draw attention to the Independent Expert's view that the criminal investigative unit known as the SIU (Comisión de Investigación de Hechos Delictivos) should be abolished. This unit has been staffed by active duty members of the Salvadorian Armed Forces, seriously compromising its independence. The Independent Expert observed that "This Commission, although it seems to have very modern equipment obtained through international cooperation, has been able to solve hardly any of the shocking crimes which caused a public outcry and involved a serious violation of human rights. [...] As a result, the Criminal Investigation Commission has been perceived in some quarters as one of the causes, by reason of its lack of results at least, of the impunity with which violations of human rights have been committed". (A/47/596, para.146).

6. The absence of functioning institutions to guarantee fundamental rights, and to properly redress abuses when they do occur, precludes, in our view, any significant measure of confidence in the Government's will or capacity to respect human rights. Over the years the number of human rights abuses in El Salvador has fallen, only to climb again.

7. Scrutiny by ONUSAL and the Independent Expert have undeniably had a positive effect on compliance with human rights norms. Both institutions remain necessary to convey the importance which the international community attaches to El Salvador's successful transition to peace. For this reason, it is essential to strengthen the capacity of rights monitors at a moment when compliance with the peace accords and improvement in the human rights situation fundamentally depend on international scrutiny.

8. In this regard, we are mindful of the experience of Guatemala. After the election of a civilian President, Vinicio Cerezo, in 1985, the mandate of the Special Rapporteur was, in our view, prematurely discontinued. However, the installation of a civilian government was followed by deterioration in the

human rights situation and a near-total government unwillingness and inability to respond to widespread military human rights violations.

9. In this context, we offer the Commission on Human Rights the following observations and recommendations:

1. To continue the consideration of El Salvador under item 12 and to renew the mandate, as currently defined, of the Independent Expert.

2. To call on the Government of El Salvador to implement recommendations made by the ONUSAL human rights verification mission and the Independent Expert.

3. To encourage the dissolution of the SIU (Comisión de Investigación de Hechos Delictivos), while dedicating resources to help establish a civilian criminal investigative unit within the National Civilian Police to be housed at the Attorney General's office (Fiscalía), as provided for by the peace accord.

4. To monitor the follow-up and implementation of the findings and recommendations contained in the "Truth Commission" report.

5. To call on the Cristiani government to fully implement the findings of the Ad Hoc Commission, and in particular, to call on his government to continue the work of the Truth Commission so that a full accounting may be made of acts of violence by both sides to the civil conflict.

6. To encourage El Salvador's new Human Rights Ombudsman's Office (Procuraduría para la Defensa de los Derechos Humanos) to work closely with the ONUSAL human rights division with the aim of training the Ombudsman's staff to assume the monitoring and reporting functions currently conducted by members of the ONUSAL mission.

7. To call on the Cristiani government to renew the investigation of the murders of six Jesuit priests and two women at the Central American University José Simeón Cañas in November 1989. While the September 1991 conviction of two army officers involved in the killings represents a significant blow to impunity, those who masterminded the murder plot have not yet been identified. The Lawyers Committee continues to view the UCA murders as a key case and believes that all those involved must stand trial.

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